

REMARKS

Claims 1-5, 7 and 14-25 are in the application after amendment herein. An objection raised to claim 16 is addressed per the Examiner's suggestion. A rejection of claim 2 under Section 112 is fully addressed in the above amendment. Other changes of an apparent nature are made to assure the claims satisfy the requirements of Section 112.

Claims 1-5, 7 and 14-25 are rejected under Section 103 over U.S. Patent No. 6,282,454 (Papadopoulos) in view of U.S. Patent No. 5,103,392 (Mori) and further in view of U.S. Patent No. 7,035,898 (Baker). With respect to the two independent claims 1 and 14, applicants respectfully traverse the art rejections for at least two reasons. First it is noted that the rejection combines the Papadopoulos reference with the Mori and Baker references when the Papadopoulos reference has absolutely no disclosure relating to license of software. That is, there is no basis in any of the cited art for charging a payment figure based on use of a process control system. None of the Papadopoulos disclosure concerns license of a control system to a customer. Nor is there any disclosure in the other references which would provide a basis to modify the disclosure of Papadopoulos and Mori to reconstruct the claimed invention.

Second, the rejections rely on the Baker reference for disclosure of creating or removing a process control function, but none of the disclosure is in the context of determining a payment figure in relation to creation of a process control function.

Fundamentally, based on the claims as now presented, the rejections are deficient. There cannot be a prima facie case of obviousness when there is no recognition in the prior art -- and there is no motivation in the prior art -- which would lead to reconstruction of the references to meet the terms of the claims.

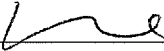
In this regard, claim 1 is amended (with support found at paragraphs [0001], [0002] and [0024] - [0028]) to more expressly require that the payment figure is based on creation of the process control function. Similarly, claim 14 has required determining a payment figure to be charged to the user based on the creation of the process control function. The Baker reference does not at all suggest charging (or determining a payment figure) for creation of a process control function. Similar revisions are made to claim 14.

Conclusion

For the foregoing reasons, it is respectfully submitted that the objections and rejections set forth in the outstanding Office Action are inapplicable to the present claims. Please grant any extensions of time required to enter this paper. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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